

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**VANNIE GRIFFIN and DEBORAH A.
GRIFFIN**

v.

**WERNER ENTERPRISES, INC., and
PERRY WAYNE ADAMS**

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§
§

Civil Cause No. _____

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, WERNER ENTERPRISES, INC., Defendant in the above-referenced matter, and files this its Notice of Removal under 28 U.S.C. § 1332(a).

**I.
INTRODUCTION**

1. Plaintiff VANNIE GRIFFIN is an individual citizen and resident of the State of Ohio.
2. Plaintiff DEBORAH A. GRIFFIN is an individual citizen and resident of the State of Ohio.
3. Defendant WERNER ENTERPRISES, INC. is a foreign corporation duly registered and incorporated and maintaining its principal place of business within the state of Nebraska.
4. Defendant PERRY WAYNE ADAMS is an individual citizen and resident of the State of California.

5. Defendant WERNER ENTERPRISES, INC. and PERRY WAYNE ADAMS were served with suit on or about March 19, 2015. Defendants, therefore, have filed this Notice of Removal within the thirty-day time period required by federal law.

6. Plaintiffs have sued Defendant Werner Enterprises, Inc. asserting that the alleged negligence on the part of Defendant Perry Wayne Adams can be imputed to the Defendant on the doctrine of *respondeat superior* in the 101st Judicial District Court of Dallas County, Texas, Cause No. DC-15-02602.

II. BASIS FOR REMOVAL

7. Removal is proper under 28 U.S.C. § 1332(a) because Plaintiffs' suit is a civil action in which this Court has original jurisdiction over the parties, based upon diversity jurisdiction under 28 U.S.C. § 1332. This action is one which is removable to this Court pursuant to the provisions of 28 U.S.C. §1441(b) because Plaintiffs are citizens of the State of Ohio, Defendant Werner is a Nebraska corporation, Defendant Adams is a citizen of the State of California.

8. The Defendant is now, and was at the time the removed action was commenced, diverse in citizenship from the Plaintiffs. 28 U.S.C. § 1332. Accordingly, because the notice of removal was filed within thirty days (30) after the receipt of a copy of the initial pleading setting forth the claim for relief this removal is proper and timely under 28 U.S.C. §1446(b).

9. The amount in controversy in this action exceeds, exclusive of interest and costs, the sum of Seventy-Five Thousand and No/100 Dollars (\$75,000.00). Plaintiffs' Original Petition, attached to this Notice, alleges that Plaintiffs intend to show that their damages exceed the sum of \$100,000.00. *See Plaintiffs' Original Petition, page 1.*

10. All pleadings, process, orders, and all other filings in the State Court action are attached to the Notice of Removal as required by 28 U.S.C. § 1446(a) and are resubmitted herewith.

11. The United States District Court for the Northern District of Texas, Dallas Division, embraces Dallas County, Texas, the place where the State Court Action was filed and is pending. This statement is not meant as a waiver of any argument that venue is proper in the location in which the State Court Action was filed, but merely demonstrates the propriety of removing the action to this federal judicial district.

12. Defendant filed a copy of the Notice of Removal with the Clerk of the State Court in which the action had been pending.

13. Defendant hereby demands a trial by jury in accordance with the provisions of FED. R. CIV. P. 38.

WHEREFORE, Defendant, as a party in diversity with the Plaintiffs, respectfully request that this action be immediately and entirely removed upon filing this Notice of Removal to the United States District Court for the Northern District of Texas, Dallas Division, and for such other and further relief to which they may show itself to be justly entitled.

Respectfully Submitted,

/s/ Michael P. Sharp

MICHAEL P. SHARP

State Bar No. 00788857

msharp@feesmith.com

JASON A. BURRIS

State Bar No. 24049591

jburris@feesmith.com

Fee, Smith, Sharp & Vitullo, L.L.P.

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, TX 75240

(972) 934-9100

(972) 934-9200 (Fax)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of April, 2015, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the electronic records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants:

G. David Smith
Ryan K. Lee
Law Office of G. David Smith P.C.
702 N. Goliad
Rockwall, TX 75087
david@gdavidsmith.com
ryan@gdavidsmith.com

and

Of Counsel:
Marc G. Williams-Young
Spitler and Williams-Young Co., L.P.A.
1000 Adams Street, Suite 200
Toledo, OH 43604-7551
mwilliams-young@spitlerwilliams-young.com

/s/ Michael P. Sharp

MICHAEL P. SHARP

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**VANNIE GRIFFIN and DEBORAH A.
GRIFFIN**

v.

**WERNER ENTERPRISES, INC., and
PERRY WAYNE ADAMS**

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Civil Cause No. _____

INDEX OF PLEADINGS FILED IN THE STATE COURT ACTION

TO THE UNITED STATES DISTRICT CLERK:

Pursuant to 28 U.S.C. § 1447(b), attached hereto are complete true and correct copies of all documents filed in the state court action.

Respectfully Submitted,

/s/ Michael P. Sharp

MICHAEL P. SHARP

State Bar No. 00788857

msharp@feesmith.com

JASON A. BURRIS

State Bar No. 24049591

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1000 Adams Street, Suite 200
Toledo, OH 43604-7551
mwilliams-young@spitlerwilliams-young.com

/s/ Michael P. Sharp

MICHAEL P. SHARP

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REGISTER OF ACTIONS

REGISTER OF ACTIONS**CASE No. DC-15-02602****VANNIE GRIFFIN, et al vs. WERNER ENTERPRISES, INC., et al****Case Type: MOTOR VEHICLE ACCIDENT****Date Filed: 03/06/2015****Location: 101st District Court****PARTY INFORMATION**

DEFENDANT	ADAMS, PERRY WAYNE	Lead Attorneys MICHAEL PAUL SHARP <i>Retained</i> 972-934-9100(W)
DEFENDANT	WERNER ENTERPRISES, INC.	MICHAEL PAUL SHARP <i>Retained</i> 972-934-9100(W)
PLAINTIFF	GRIFFIN, DEBORAH A.	G DAVID SMITH <i>Retained</i> 972-771-2579(W)
PLAINTIFF	GRIFFIN, VANNIE	G DAVID SMITH <i>Retained</i> 972-771-2579(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS			
03/06/2015	NEW CASE FILED (OCA) - CIVIL		
03/06/2015	ORIGINAL PETITION <i>Plaintiff's Original Petition</i>		
03/06/2015	ISSUE CITATION		
03/06/2015	ISSUE CITATION COMM OF INS OR SOS		
03/10/2015	REQUEST FOR SERVICE <i>Additional \$4 fee for Citation</i>		
03/18/2015	CITATION ESERVE 4544744 WERNER ENTERPRISES, INC. Served 03/19/2015 Returned 03/20/2015		
03/18/2015	CITATION SOS/COI/COH/HAG ESERVE 4544744 ADAMS, PERRY WAYNE Served 03/19/2015 Returned 03/25/2015		
03/18/2015	CITATION ISSUED 1 REGULAR AND 1 COH		
03/20/2015	RETURN OF SERVICE WERNER ENTERPRISES RA WILLIAM CLARK CITATION SERVED		
03/25/2015	RETURN OF SERVICE RETURN OF SERVICE		
04/09/2015	JURY DEMAND LETTER TO COURT TO PAY JURY FEE		
04/09/2015	ORIGINAL ANSWER - GENERAL DENIAL		
04/09/2015	VACATION LETTER		
06/19/2015	Status Conference (9:00 AM) (Judicial Officer WILLIAMS, STACI) <i>mailed 4.6.15</i>		

FINANCIAL INFORMATION

	DEFENDANT WERNER ENTERPRISES, INC.			
	Total Financial Assessment			30.00
	Total Payments and Credits			30.00
	Balance Due as of 04/14/2015			0.00
04/10/2015	Transaction Assessment			30.00
04/10/2015	CREDIT CARD - TEXFILE (DC)	Receipt # 21077-2015-DCLK	WERNER ENTERPRISES, INC.	(30.00)
	PLAINTIFF GRIFFIN, VANNIE			
	Total Financial Assessment			297.00
	Total Payments and Credits			297.00
	Balance Due as of 04/14/2015			0.00
03/09/2015	Transaction Assessment			293.00
03/09/2015	CREDIT CARD - TEXFILE (DC)	Receipt # 13336-2015-DCLK	GRIFFIN, VANNIE	(293.00)
03/18/2015	Transaction Assessment			4.00
03/18/2015	CREDIT CARD - TEXFILE (DC)	Receipt # 15627-2015-DCLK	GRIFFIN, VANNIE	(4.00)

PLAINTIFFS' ORIGINAL PETITION

DC-15-02602

Tonya Pointer

CAUSE NO. _____

VANNIE GRIFFIN and DEBORAH A. GRIFFIN,	§	IN THE DISTRICT COURT
	§	
	§	
Plaintiffs	§	
vs.	§	
	§	OF DALLAS COUNTY, TEXAS
WERNER ENTERPRISES, INC. and PERRY WAYNE ADAMS,	§	
	§	
	§	
Defendants	§	_____ JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiffs Vannie Griffin and Deborah A. Griffin complain of Defendants Werner Enterprises, Inc. And Perry Wayne Adams, Defendants, and in support thereof would show the Court the following:

I.
DISCOVERY LEVEL

Discovery is intended to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure. This case involves a controversy in which monetary damages in excess of \$100,000.00 and less than \$1,000,000.00 are sought. Pursuant to Tex. R. Civ. P. 47, plaintiff pleads alternatively for damages in the amounts specified in Rule 47 (c) (3) and (4).

II.
PARTIES

Plaintiffs are residents of Toledo, Ohio.

Defendant Werner Enterprises, Inc. is a corporation incorporated under the laws of the State of Nebraska with a registered office as a foreign corporation doing business in Dallas, Dallas County,

Texas. It may be served with process by and through its Texas registered agent for service, William L. Clark, at 8601 Peterbilt Avenue, Dallas, Texas 75241.

Defendant Perry Wayne Adams is a non-resident of the State of Texas. This case arises from the operation of a motor vehicle by Defendant Williams while acting as an employee of Defendant Werner Enterprises, Inc. Service upon Defendant Adams should be made in compliance with *Tex. Civ. Prac. & Rem. Code § 17.061 et seq.* The clerk is hereby requested to issue citation and process in this case to the chairman of the Texas Transportation Commission as agent for Defendant Adams in accordance with *Tex. Civ. Prac. & Rem. Code § 17.063*. In turn, the chairman shall deliver a copy of the process along with notice that process has been served upon him to Defendant Adams pursuant to said statute. Said notice by the chairman is to be sent via registered or certified mail, return receipt requested. The clerk is directed to issue citation and process pursuant to *Tex. R. Civ. P. 103* and *106* to the chairman at the following address:

Ted Houghton, Chairman
Texas Transportation Commission
125 E. 11th Street
Austin, Texas 78701-2483

The chairman, in turn, is to deliver process to Defendant Adams at the following address:

Perry Wayne Adams
1962 Lakewood Drive, Apt. C
San Jose, California 95132-1438

III. VENUE & JURISDICTION

Pursuant to §15.002 *et seq.* of the Texas Civil Practice and Remedies Code, venue is proper in Dallas County because Defendant Werner Enterprises, Inc. maintains its principal office in Texas

in Dallas County, Texas. This Court has jurisdiction over the lawsuit as the relief sought is within the jurisdictional limits of the Court.

IV.
FACTUAL BACKGROUND

This lawsuit results from a rear-end collision that occurred on Interstate 30 near Royse City, Texas. On or about March 12, 2013, Plaintiff Vannie Griffin was operating his semi-tractor trailer in a lawful manner while traveling westbound on Interstate 30. Defendant Adams was operating a semi-tractor trailer owned by Defendant Werner Enterprises, Inc. (Werner). Adams was traveling in the same direction as the Plaintiff. Adams was, at all times relevant, acting in the course and scope of his agency with Werner, whether as an agent, employee, or contractor under the control of or with authority granted by Werner to act on its behalf.

Defendant Adams' vehicle struck the rear of Plaintiff Griffin's vehicle. The impact was severe and caused serious injuries to Plaintiff Griffin. At all times, Plaintiff Griffin was operating his vehicle in a safe and prudent manner.

At all times relevant hereto, Plaintiffs Vannie and Deborah Griffin were and are married.

V.
CAUSES OF ACTION

Negligence of Defendant Perry Wayne Adams

Plaintiff hereby re-alleges and incorporates by reference the preceding paragraphs. The occurrence made the basis of this lawsuit, referred to above, and the resulting injuries and damages, were proximately caused by the negligent conduct of Defendant Adams, including but not limited to the following:

- a. Defendant failed to keep a proper lookout;

- b. Defendant drove his vehicle at a greater rate of speed than the speed at which a reasonable prudent person would have driven under the same or similar circumstances in violation of local ordinances and TEX. TRANS. CODE ANN. §545.351;
- c. Defendant failed to control his speed pursuant to TEX. TRANS. CODE ANN. §545.351;
- d. Defendant failed to drive in a non-reckless manner pursuant to TEX. TRANS. CODE ANN. §545.401;
- e. Defendant failed to maintain a safe following distance between two vehicles pursuant to §545.062 of the TEX. TRANS. CODE ANN.;
- f. Defendant failed to timely apply the brakes on his vehicle immediately prior to the collision in question;
- g. Defendant operated a vehicle with defective equipment and/or operated the vehicle when it was in a defective condition which the Defendant knew or should have known to exist;
- g. Defendant failed to take proper evasive action in order to avoid the collision in question; and
- h. Defendant was distracted while driving.

The above enumerated acts and omissions, singularly or in combination with others, individually and collectively constituted negligence which proximately cause the collision and proximately caused the injuries and damages to Plaintiff as set forth more particularly hereinafter.

Negligence Per Se

Defendant was negligent per se in violating one or more of the following particulars:

- a. In failing to drive in a non-reckless manner. TEX. TRANS. CODE ANN. §545.401;
- b. In driving at a speed greater than that which is reasonable and prudent under the

circumstances then existing. TEX TRANS CODE ANN. §545.401;

- c. In failing to keep a safe assured distance. TEX TRANS. CODE ANN. §545.062; and
- d. In failing to maintain a safe following distance between two vehicles pursuant to §545.062. of the TEX. TRANS. CODE ANN.

The above enumerated acts and omissions, singularly or in combination with others, individually and collectively constituted negligence per se which proximately caused the collision and proximately caused the injuries and damages to Plaintiff as set forth more particularly hereinafter.

Negligence of Werner

Defendant Werner had a duty to protect the Plaintiff and other drivers from harm caused by its vehicles. Specifically, Werner had a duty to maintain its vehicles in good operating condition and prevent the vehicles from operating on the road with defective or malfunctioning components. Defendant Werner also had the duty to train and instruct the drivers of its vehicles on how to operate the vehicles in a safe and prudent manner. Defendant Werner failed to maintain its equipment and/or failed to train Defendant Adams on safe operation of its vehicle. Such failures were a proximate cause of the collision described above and the damages that resulted therefrom.

VI.

AGENCY AND RESPONDEAT SUPERIOR

Defendant Werner is vicariously liable for the torts of an employee committed in the course of his employment. As Defendant Adams was operating his vehicle in the course and scope of his employment with Defendant Werner, it is liable for Defendant Adam's negligent conduct.

VII
DAMAGES TO PLAINTIFF

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiffs sustained damages. These included injuries that are, in reasonable probability, permanent in nature.

These damages are as follows:

- a. Plaintiff Vannie Griffin incurred reasonable and necessary medical expenses in the past and can reasonably expect to incur future medical costs for the necessary treatment of the injuries he sustained in the collision;
- b. Plaintiff Vannie Griffin experienced physical pain and mental anguish in the past as a result of his physical injuries and, in all reasonable probability, will sustain physical pain and mental anguish in the future as a result of his physical injuries; and
- c. Plaintiff Vannie Griffin experienced impairment in the past as a result of his physical injuries, and in all reasonable probability, will sustain impairment in the future as a result of his physical injuries.
- d. Plaintiff Vannie Griffin experienced a loss of wages due to the incapacity caused by his injuries. Such loss continues and will, in all reasonable probability, continue into the future;
- e. Both Plaintiffs Vannie Griffin and Deborah Griffin have suffered a loss of consortium due the injuries sustained by Vannie Griffin. Such loss will continue into the future; and
- f. Plaintiff Deborah Griffin has suffered a loss of services to the marriage and household due to the injuries and incapacity of Vannie Griffin. Such losses are expected to continue into the future;

VIII.
REQUESTS FOR DISCLOSURE

Pursuant to Tex. R. Civ. P. 194, each Defendant named herein is requested to disclose to Plaintiffs, no later than fifty (50) days of service of this request, the information or material described in Rule 194.2.

PRAYER

WHEREFORE PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer herein and, upon final hearing hereof, Plaintiffs have:

1. Judgment against Defendants for the actual and special damages suffered by Plaintiffs as a result of Defendants' negligent conduct in an amount in excess of the minimum jurisdictional limits of the Court;
2. Prejudgment and post judgment interest as provided by law; and
3. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

LAW OFFICE OF G. DAVID SMITH P.C.
Attorney for Plaintiffs

By: /s/ G. David Smith

Law Office of G. David Smith P.C.

G. David Smith

david@gdavidsmith.com

Texas Bar #18596300

Ryan K. Lee

ryan@gdavidsmith.com

Texas Bar #24070129

702 N. Goliad

Rockwall, Texas 75087

(972) 771-2579

(972) 771-0513 Facsimile

SPITLER AND WILLIAMS-YOUNG
CO., L.P.A.
Of Counsel

By: /s/ Marc G. Williams-Young

Marc G. Williams-Young

mwilliams-young@spitlerwilliams-young.com

Ohio Bar No. 0009825

1000 Adams Street, Suite 200

Toledo, Ohio 43604-7551

(419) 242-1555

(419) 242-8827 Facsimile

LETTER FROM PLAINTIFFS' ATTORNEY TO COURT
FOR CITATION ISSUANCE

Maria Sanchez

Law Offices of G. David Smith, P.C.

702 N. Goliad
Rockwall, Texas 75087
(972) 771-2579 Fax (972) 771-0513
Toll Free (800) 548-8128
www.gdavidsmith.com

G. David Smith, Attorney
Board Certified – Personal Injury Trial Law
Texas Board of Legal Specialization
Email: david@gdavidsmith.com

Diane Martin,
Legal Assistant
diane@gdavidsmith.com

Ryan K. Lee, Attorney
Email: ryan@gdavidsmith.com

March 16, 2015

Re: *Vannie Griffin, et al vs Werner Enterprises, Inc., et al*

To Whom It May Concern:

Enclosed you will find:

- The additional \$4 for citation issuance.

Please e-serve all citation to david@gdavidsmith.com.

Thank you.

Christi Thompson

CITATION FOR SERVICE ON DEFENDANT WERNER ENTERPRISES, INC.

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To:

**WERNER ENTERPRISES, INC.
BY SERVING ITS REGISTERED AGENT WILLIAM L CLARK
8601 PETERBILT AVENUE
DALLAS TX 75241**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 101st District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **VANNIE GRIFFIN AND DEBORAH A GRIFFIN**

Filed in said Court **6th day of March, 2015** against

WERNER ENTERPRISES, INC. AND PERRY WAYNE ADAMS

For Suit, said suit being numbered **DC-15-02602**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc. as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 18th day of March, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Shelia Bradley, Deputy
SHELIA BRADLEY



ESERVE

CITATION

DC-15-02602

**VANNIE GRIFFIN, et al
vs.
WERNER ENTERPRISES, INC.,
et al**

**ISSUED THIS
18th day of March, 2015**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: **SHELIA BRADLEY, Deputy**

**Attorney for Plaintiff
G DAVID SMITH
702 N GOLIAD
ROCKWALL TX 75087
972-771-2579
DAVID@GDAVIDSMITH.COM**

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-15-02602

Court No. 101st District Court

Style: VANNIE GRIFFIN, et al

vs.

WERNER ENTERPRISES, INC., et al

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ M. Executed at _____
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____,
20_____, by delivering to the within named _____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____

CITATION FOR SERVICE ON DEFENDANT PERRY WAYNE ADAMS

FORM NO. 353-4—CITATION
THE STATE OF TEXAS

To: **PERRY WAYNE ADAMS**
1962 LAKEWOOD DRIVE APT C
TED HOUGHTON CHAIRMAN TEXAS TRANSPORTATION COMMISSION
125 E 11TH STREET
AUSTIN, TX, 78701-2483

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Your answer should be addressed to the clerk of the 101st District Court at 600 Commerce Street, Dallas, Texas 75202.

Said **PLAINTIFF** being **VANNIE GRIFFIN AND DEBORAH A GRIFFIN**

Filed in said Court 6th day of March, 2015 against
WERNER ENTERPRISES, INC. AND PERRY WAYNE ADAMS

For suit, said suit being numbered **DC-15-02602** the nature of which demand is as follows:

Suit On **MOTOR VEHICLE ACCIDENT** etc.

as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.

Given under my hand and the Seal of said Court at office on this the 18th day of March, 2015

ATTEST: FELICIA PITRE

Clerk of the District Courts of Dallas, County, Texas



By /s/ Shelia Bradley, Deputy
SHELIA BRADLEY

ESERVE (COH)

CITATION

No.: **DC-15-02602**

VANNIE GRIFFIN, ET AL
VS.
WERNER ENTERPRISES, INC., ET AL

ISSUED
ON THIS THE 18TH DAY OF MARCH,
2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By **SHELIA BRADLEY**, Deputy

Attorney for : Plaintiff
G DAVID SMITH
702 N GOLIAD
ROCKWALL TX 75087
DAVID@GDAVIDSMITH.COM
972-771-2579

DALLAS COUNTY
SERVICE FEES
NOT PAID

**OFFICER'S RETURN
FOR INDIVIDUALS**

Cause No. DC-15-02602

Court No: 101st District Court

Style: VANNIE GRIFFIN, et al

vs.

WERNER ENTERPRISES, INC., et al

Received this Citation the _____ day of _____, 20____ at _____ o'clock. Executed at _____, within the County of _____, State of _____, on the _____ day of _____, 20____, at _____ o'clock, by _____ delivering to the within named _____ each in person, a copy of this Citation together with the accompanying copy of Plaintiff's original petition, having first indorsed on same the date of delivery.

-----000000-----

**OFFICER'S RETURN
FOR CORPORATIONS**

Received this Citation the _____ day of _____, 20____ at _____ o'clock ____M. Executed at _____, within the County of _____, State of _____, on the _____ day of _____, 20____, at _____ o'clock ____M. by summoning the within named Corporation, _____ by delivering to _____
President - Vice President - Registered Agent - in person, of the said

a true copy of this citation together with the accompanying copy of Plaintiff's original petition, having first indorsed on same the date of delivery.

-----000000-----

The distance actually traveled by me in serving such process was _____ miles and my fees are as follows:

For Serving Citation	\$ _____	Sheriff	_____
For Mileage	\$ _____	County of	_____
For Notary	\$ _____	State of	_____
Total Fees	\$ _____	By	_____

To certify which witness by my hand.

(Must be verified if served outside the State of Texas)

State of _____

County of _____

Signed and sworn to me by the said _____ before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Seal

State & County of _____

OFFICER'S RETURN – SERVICE ON DEFENDANT
WERNER ENTERPRISES, INC.

Dianne Coffey

FILED
DALLAS COUNTY
3/20/2015 1:34:35 PM
FELICIA PITRE
DISTRICT CLERK

OFFICER'S RETURN

Case No.: DC-15-02602

Court No. 101st District Court

Style: VANNIE GRIFFIN, et al

vs.

WERNER ENTERPRISES, INC., et al

Came to hand on the 19th day of March, 20 15, at 1:00 o'clock P. M. Executed at 8601 Peter built Ave Dallas Tx 75241
within the County of Dallas at 1:35⁰ o'clock P. M. on the 19 day of March
20 15, by delivering to the within named Werner Enterprises Inc. by serving its registered agent William L. Clark

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand

Krystal Jones
TX SC 10814
Exp. 03/31/2017

For serving Citation \$ _____

For mileage \$ _____

For Notary \$ _____

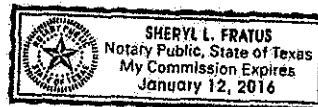
of Dallas County, Texas

By [Signature] Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said Krystal Jones before me this 20 day of March, 20 15,
to certify which witness my hand and seal of office.

Notary Public Dallas County TX



350 3/16/15

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To:

**WERNER ENTERPRISES, INC.
BY SERVING ITS REGISTERED AGENT WILLIAM L CLARK
8601 PETERBILT AVENUE
DALLAS TX 75241**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 101st District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **VANNIE GRIFFIN AND DEBORAH A GRIFFIN**

Filed in said Court **6th day of March, 2015** against

WERNER ENTERPRISES, INC. AND PERRY WAYNE ADAMS

For Suit, said suit being numbered **DC-15-02602**, the nature of which demand is as follows:
Suit on **MOTOR VEHICLE ACCIDENT** etc, as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 18th day of March, 2015.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By /s/ Shella Bradley, Deputy
SHELLA BRADLEY



ESERVE

CITATION

DC-15-02602

VANNIE GRIFFIN, et al

vs.

**WERNER ENTERPRISES, INC.,
et al**

ISSUED THIS
18th day of March, 2015

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: **SHELIA BRADLEY**, Deputy

Attorney for Plaintiff
G DAVID SMITH
702 N GOLIAD
ROCKWALL TX 75087
972-771-2579
DAVID@GDAVIDSMITH.COM

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

AFFIDAVIT OF SERVICE FOR
DEFENDANT PERRY WAYNE ADAMS

Dallas County 101st District Court

Plaintiff

Vannie Griffin and Deborah A. Griffin

Case No.: DC-15-02602

Defendant

Werner Enterprises, Inc. and Perry Wayne Adams

RETURN OF SERVICE

I Larry Pollock, being duly sworn, depose and say, I have been duly authorized by the Supreme Court of Texas to serve Citations and other Notices as well as make service of the document(s) listed herein in the above styled case.

For: Ryan K. Lee

Date Received: 3/19/2015 1:51 PM

Document(s): Citation with Original Petition

Serve To: Perry Wayne Adams through the Texas Department of Transportation

Address: 125 E. 11th St, Austin, TX 78701

Date Served: 3/19/2015 2:30 PM

Method of Service: Personally

Person Served: Perry Wayne Adams through the Texas Department of Transportation by personal delivery to Sierra R. Fallin, Authorized Agent for Service of Process

Address: 125 E. 11th St, Austin, TX 78701

My name is Larry Pollock my date of birth is 7/9/50 and my address is 316 West 12th Street, Ste. 316 Austin, TX 78701 U.S.A. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Travis County, State of TEXAS on the 19th day of March, 2015


Larry Pollock, SCH10370 Certification Expires:06/30/2016

Weeks & Associates, LLC

316 West 12th Street, Ste. 316

Austin, TX 78701

(512) 472-9989

(512) 494-1133

ID: 20372

Client Reference: 500414

Service Fee: 75-

NOTICE OF STATUS CONFERENCE FROM COURT TO
PLAINTIFFS' ATTORNEY G. DAVID SMITH



101st District Court
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604
April 06, 2015

G DAVID SMITH
LAW OFFICE G DAVID SMITH
702 N GOLIAD
ROCKWALL TX 75087

Re: VANNIE GRIFFIN, et al vs. WERNER ENTERPRISES, INC., et al
DC-15-02602

All Counsel of Record/Pro Se Litigants:

This letter is to advise you that this matter is set for a Status Conference hearing on **June 19, 2015 at 9:00 AM** in this Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Staci Williams", with a long horizontal flourish extending to the right.

Honorable STACI WILLIAMS
Presiding Judge

DBT/fl

pc: PERRY WAYNE ADAMS; WERNER ENTERPRISES, INC.; G DAVID SMITH

NOTICE OF STATUS CONFERENCE FROM COURT TO
DEFENDANT PERRY WAYNE ADAMS



101st District Court
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604
April 06, 2015

PERRY WAYNE ADAMS
Through Ted Houghton
125 E 11TH STREET
AUSTIN TX 78701-2483

Re: VANNIE GRIFFIN, et al vs. WERNER ENTERPRISES, INC., et al
DC-15-02602

All Counsel of Record/Pro Se Litigants:

This letter is to advise you that this matter is set for a Status Conference hearing on **June 19, 2015 at 9:00 AM** in this Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Staci Williams", with a long horizontal flourish extending to the right.

Honorable STACI WILLIAMS
Presiding Judge

DBT/fil

pc: PERRY WAYNE ADAMS; WERNER ENTERPRISES, INC.; G DAVID SMITH

NOTICE OF STATUS CONFERENCE FROM COURT TO
DEFENDANT WERNER ENTERPRISES, INC.



101st District Court
GEORGE L. ALLEN, SR. COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604
April 06, 2015

WERNER ENTERPRISES, INC.
BY SERVING ITS REGISTERED AGENT WILLIAM L CLARK
8601 PETERBILT AVENUE
DALLAS TX 75241

Re: VANNIE GRIFFIN, et al vs. WERNER ENTERPRISES, INC., et al
DC-15-02602

All Counsel of Record/Pro Se Litigants:

This letter is to advise you that this matter is set for a Status Conference hearing on **June 19, 2015 at 9:00 AM** in this Court.

Sincerely,

A handwritten signature in black ink, appearing to read "Staci Williams", written over a horizontal line.

Honorable STACI WILLIAMS
Presiding Judge

DBT/fl

pc: PERRY WAYNE ADAMS; WERNER ENTERPRISES, INC.; G DAVID SMITH

DEFENDANTS' ORIGINAL ANSWER

Christi Underwood

WER.6583

CAUSE NO. DC15-02602

VANNIE GRIFFIN and DEBORAH A. GRIFFIN	§	IN THE DISTRICT COURT
	§	
	§	101st JUDICIAL DISTRICT
v.	§	
	§	
WERNER ENTERPRISES, INC. and PERRY WAYNE ADAMS	§	DALLAS COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW **WERNER ENTERPRISES, INC. and PERRY WAYNE ADAMS**, Defendants named in the above entitled and numbered cause, and file this their Original Answer, and for same would respectfully show unto the Court as follows:

I.

GENERAL DENIAL

Defendants deny each and every, all and singular, the material allegations contained within Plaintiffs' pleadings and demand strict proof thereof pursuant to Rule 92 of the Texas Rules of Civil Procedure.

II.

SECTION 18.091

Defendants invoke Section 18.091 of the Texas Civil Practice and Remedies Code. To the extent Plaintiffs seeks recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value or loss of inheritance, the evidence to prove such loss must be presented in the form of net loss after reduction of income tax payments or unpaid tax liability.

Defendants further request the court to instruct the jury as to whether any recovery for compensatory damages sought by Plaintiffs is subject to federal or state income taxes.

III.

SECTION 41.0105

Defendants invoke Section 41.0105 of the Texas Civil Practice and Remedies Code. To the extent Plaintiffs seek recovery of medical or healthcare expenses incurred, the evidence to prove such loss must be limited to the amount actually paid or incurred by or on behalf of Plaintiffs. Defendants further request the court to instruct the jury as to whether any recovery for medical or healthcare expenses sought by Plaintiffs is limited to the amount actually paid or incurred by or on behalf of Plaintiffs.

IV.

JURY DEMAND

In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendants demand a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendants **WERNER ENTERPRISES, INC.** and **PERRY WAYNE ADAMS** pray that the Plaintiffs take nothing by this suit, that Defendants go hence with their costs without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendants may show themselves justly entitled.

Respectfully submitted,

FEE, SMITH, SHARP & VITULLO, L.L.P



MICHAEL P. SHARP

State Bar No. 00788857

msharp@feesmith.com

JASON A. BURRIS

State Bar No. 24049591

jburris@feesmith.com

Three Galleria Tower

13155 Noel Road, Suite 1000

Dallas, Texas 75240

(972) 934-9100

(972) 934-9200 [FAX]

**ATTORNEYS FOR DEFENDANTS
WERNER ENTERPRISES, INC. AND
PERRY WAYNE ADAMS**

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been mailed, telecopied or hand delivered to all attorneys of record in this cause of action on the 9th day of April, 2015 as follows:

Via Facsimile:

G. David Smith
Ryan K. Lee
Law Office of G. David Smith
702 N. Goliad
Rockwall, TX 75087

And

Marc G. Williams-Young
Spitler and Williams-Young Co., L.P.A.
1000 Adams Street, Suite 200
Toledo, OH 43604-7551



MICHAEL P. SHARP



Fee, Smith, Sharp & Vitullo LLP

Three Galleria Tower 13155 Noel Road Suite 1000 Dallas, Texas 75240
P 972-934-9100 F 972-934-9200

877-FEESMITH www.feesmith.com

816 Congress Avenue Suite 1265 Austin, Texas 78701
P 512-479-8400 F 512-479-8402

Michael P. Sharp
972-980-3255 Direct Dial

msharp@feesmith.com

April 9, 2015

Via Electronic Filing

Clerk
101st Judicial District Court
George L. Allen, Sr. Courts Bldg.
600 Commerce Street, Suite 685
Dallas, TX 75202

Re: Cause No. DC15-02602; *Vannie Griffin, et al v. Werner Enterprises, Inc., et al*; In
the 101st Judicial District Court, Dallas County, Texas
Our File No.: WER.6583

Dear Clerk:

Enclosed please find Defendants' Original Answer for filing among the papers of the
Court in the above-referenced cause of action.

By copy of this letter, we are providing a copy of this filing to all counsel of record.

Thank you for your assistance in this matter and your many other courtesies.

Very truly yours,

Michael P. Sharp

MPS/pac
cc: ***Via Facsimile***

G. David Smith
Law Office of G. David Smith
702 N. Goliad
Rockwall, TX 75087

Marc G. Williams-Young
Spitler and Williams-Young Co., L.P.A.
1000 Adams Street, Suite 200
Toledo, OH 43604-7551

DEFENDANTS' LETTER TO COURT TO PAY JURY FEE



Fee, Smith, Sharp & Vitullo LLP

Christi Underwood

Three Galleria Tower 13155 Noel Road Suite 1000 Dallas, Texas 75240
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April 9, 2015

Via Electronic Filing

Clerk

101st Judicial District Court
George L. Allen, Sr. Courts Bldg.
600 Commerce Street, Suite 685
Dallas, TX 75202

Re: Cause No. DC15-02602; *Vannie Griffin, et al v. Werner Enterprises, Inc., et al*; In
the 101st Judicial District Court, Dallas County, Texas
Our File No.: WER.6583

Dear Clerk:

Please deduct \$30.00 from our account in payment of the jury fee in the above-referenced matter.

Thank you for your assistance in this matter and your many other courtesies.

Very truly yours,

Michael P. Sharp

MPS/pac

cc: ***Via Facsimile***

G. David Smith
Law Office of G. David Smith
702 N. Goliad
Rockwall, TX 75087

Clerk
101st Judicial District Court
April 9, 2015
Page 2

Marc G. Williams-Young
Spitler and Williams-Young Co., L.P.A.
1000 Adams Street, Suite 200
Toledo, OH 43604-7551

ATTORNEY VACATION LETTER FOR MICHAEL P. SHARP



Fee, Smith, Sharp & Vitullo LLP

Christi Underwood

Three Galleria Tower 13155 Noel Road Suite 1000 Dallas, Texas 75240
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April 9, 2015

Via Electronic Filing

Clerk
101st Judicial District Court
George L. Allen, Sr. Courts Bldg.
600 Commerce Street, Suite 685
Dallas, TX 75202

Re: Cause No. DC15-02602; *Vannie Griffin, et al v. Werner Enterprises, Inc., et al*; In
the 101st Judicial District Court, Dallas County, Texas
Our File No.: WER.6583

Dear Clerk:

Please be advised that I will be on vacation from August 19, 2015 – September 1, 2015. I would appreciate it if you would note your calendar accordingly and not schedule any hearings, court appearances, items requiring a deadline, etc. during this time period.

Thank you for your consideration.

Very truly yours,

Michael P. Sharp

MPS/pac

cc: ***Via Facsimile***

G. David Smith
Law Office of G. David Smith
702 N. Goliad
Rockwall, TX 75087

Clerk
101st Judicial District Court
April 9, 2015
Page 2

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